IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TRACY HAMILTON 213 Parkridge Drive Perkasie, PA 18944 Plaintiff, v. UNIVERSAL HEALTH SERVICES, INC. d/b/a FOUNDATIONS BEHAVIORAL HEALTH 833 Butler Avenue Doylestown, PA 18901 Defendant.	CIVIL ACTION No. ____________ **JURY TRIAL DEMANDED**

CIVIL ACTION COMPLAINT

Plaintiff, by and through her undersigned counsel, hereby avers as follows:

INTRODUCTION

1. This action has been initiated by Tracy Hamilton (hereinafter referred to as "Plaintiff," unless indicated otherwise) against Universal Health Services, Inc. (hereinafter referred to as "Defendant" unless indicated otherwise) for violations of the Americans with Disabilities Act ("ADA" - 42 U.S.C. §§ 12101 *et. seq.*), the Family and Medical Leave Act ("FMLA" – 29 U.S.C. §§ 2601 *et. seq.*) and the Pennsylvania Human Relations Act ("PHRA" – 43 P.S. §§ 951 *et. seq.*). As a direct consequence of Defendant's unlawful actions, Plaintiff seeks damages as set forth herein.

JURISDICTION AND VENUE

2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal laws. There lies supplemental jurisdiction over Plaintiff's

state-law claims because they arise out of the same common nucleus of operative facts as Plaintiff's federal claims asserted herein.

3. This Court may properly maintain personal jurisdiction over Defendant because its contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *International Shoe Co. v. Washington,* 326 U.S. 310 (1945) and its progeny.

4. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district, and Defendant is deemed to reside where it is subjected to personal jurisdiction, rendering Defendant a resident of the Eastern District of Pennsylvania.

PARTIES

5. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

6. Plaintiff is an adult individual, with an address as set forth in the caption. At all relevant times herein, Plaintiff was employed with Defendant.

7. Defendant is a fortune 500 hospital management company headquartered in King of Prussia, Pennsylvania.

8. At all times relevant herein, Defendant acted by and through its agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

FACTUAL BACKGROUND

9. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

10. Plaintiff was hired in or about April 2008 as a Registered Nurse.

11. Defendant has and continues to employ over 20 employees per calendar year for at least the last 5 years, and Defendant engages in a variety of business relationships generating revenue in the education business.

12. In or about August 2008, Plaintiff signed documentation to work three days per week.

13. Plaintiff suffers from hepatitis C and liver disease (among other complications).

14. Plaintiff's conditions affect her major life activities adversly causing her fatigue, concentration problems at times, digestive problems, immune-system problems, cell grown limitations, difficulty with her body ridding itself of waste, and other life and biological processes.

15. In or about February 2011, Plaintiff took a leave of absence for approximately 5 days due to her disabilities.

16. Plaintiff took another medical leave of absence from Defendant in or around 2012.

17. In August 2012, Plaintiff was told that beginning in November, she would be scheduled only 2 weekends per month of day shifts and that any other shifts would be assigned at night.

18. Prior to August of 2012, Plaintiff had worked day shifts.

19. Defendant claimed that part-time positions were being eliminated in November of 2012 and that Plaintiff would have to re-apply for a new position to remain on day shift.

20. Plaintiff applied for a new position on day shift as directed following her notification of potential job elimination, but she was not scheduled for an interview even though other employees were given interviews.

21. Defendant's management told Plaintiff that they had forgotten to schedule her interview.

22. Plaintiff had to adamantly request an interview again after her fellow employees had already been interviewed.

23. When Plaintiff was finally interviewed, the supervisors that interviewed her made negative comments regarding her disabilities, expressing concerns about her ability to perform her job.

24. The individuals of Defendant's management that interviewed Plaintiff told her that, her health concerned them, they didn't know if she could work full time, and that she didn't have the best attendance record (relative to her taking time off for medical reasons).

25. On or about the day Plaintiff was finally granted an interview, Defendant's management ordered Plaintiff to submit to a drug screening (despite that she had already been employed with Defendant).

26. Plaintiff was suspended from work for 14 days pending the results of the aforementioned screening she took in conjunction with trying to remain employed with Defendant.

27. On or about September 9, 2012 (after significant delays in processing Plaintiff's attempts to remain employed), Plaintiff supplied Defendant's Human Resources Director with a medical certification stating that she should not work evenings of more than eight hours per shift.

28. In or about November 2012, Defendant notified Plaintiff that she would not be scheduled for day shifts.

29. Plaintiff repeatedly asked for an accommodation of day-shift work, but she was repeatedly refused same.

30. Finally on or about December 12, 2012, Plaintiff informed Defendant's management that she was unable to continue working unless she was moved to day shift, and management responded that there were no day shifts available.

31. Plaintiff made it clear to Defendant's management that a day shift was required due to her disabilities, as she had since being notified of her job elimination.

32. Plaintiff was removed from the schedule based upon the information she provided to Defendant that she was unable to work night shifts after she was involuntarily placed on such shifts and not accommodated with any day shifts.

33. Prior to being removed from her job entirely, Plaintiff was not given many types of jobs that would have served as a reasonable accommodation to let her work on the same shift she had previously worked. She was not retained or given reasonable accommodations of other shifts or jobs because Defendant's management was attempting to force Plaintiff to cease working due to their negative perception of her health conditions.

COUNT I

Violations of the Americans with Disabilities Act ("ADA", as amended)

([1] Discrimination; [2] Failure to Accommodate; [3] Retaliation)

34. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

35. Plaintiff properly exhausted her administrative remedies before proceeding in this Court for violations of the ADA by timely filing a Charge with the Equal Employment Opportunity Commission ("EEOC") and by filing the instant Complaint within 90 days of receiving a notice of case closure and/or right-to-sue letter.

36. Plaintiff suffered the following adverse actions for which she seeks relief: (a) being given less shifts / work in a discriminatory manner; (b) being removed and transferred to a different job / job that it was known Plaintiff would medically have difficulty performing; (c) not being accommodated with a multitude of jobs Plaintiff sought and which were available to accommodate Plaintiff; (d) by suspending Plaintiff's employment for a background check despite that she was an employee already; and (e) by causing Plaintiff's employment to separate by not accommodating her and removing her from the schedule.

37. Plaintiff was terminated from Defendant because of: (1) her known health conditions; (2) her perceived health conditions; and/or (3) due to her record of impairment.

38. Plaintiff was also terminated in retaliation for requesting medical accommodations from Defendant.

39. Plaintiff made clear requests for medical accommodations (day work and eight hour shifts in the evening) but was refused any interactive process from Defendant (or reasonable or meaningful consideration of her requests).

40. These actions as aforesaid constitute unlawful discrimination, retaliation, and failure to accommodate under the ADA.

Count II
Violation of the Family and Medical Leave Act ("FMLA")
([1] Interference; [2] Retaliation)

41. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

42. Plaintiff was an eligible employee under the definitional terms of the Family and Medical Leave Act, 29 U.S.C. § 2611(2)(a)(i)(ii).

43. Plaintiff requested intermittent and/or block leaves from Defendant, her employer, with whom she had been employed for at least twelve (12) months pursuant to the requirements of 29 U.S.C.A. § 2611(2)(A)(i).

44. Plaintiff had at least 1,250 hours of service with Defendant during the prior twelve (12) months.

45. Defendant is engaged in an industry affecting commerce and employs fifty (50) or more employees for each working day during each of the twenty (20) or more calendar work weeks in the current or proceeding calendar year, pursuant to 29 U.S.C.A. § 2611(4)(A)(i).

46. Plaintiff was entitled to receive leave pursuant to 29 U.S.C.A. § 2612 (a)(1) and for a total of twelve (12) work weeks of leave due to her serious health conditions.

47. Defendant improperly refused to give Plaintiff available shifts for medical reasons, to initially interview her, to offer her available jobs, to accommodate her medical leaves, and constructively terminated Plaintiff for absences that constituted protected FMLA leave and for exercising her FMLA rights.

48. These actions as aforesaid constitute unlawful interference and retaliation under the Family and Medical Leave Act.

COUNT III
Violations of the Pennsylvania Human Relations Act ("PHRA")
(Disability Discrimination/Retaliation)

49. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

50. Plaintiff reasserts and realleges each and every assertion as set forth in Count I of this Complaint, as such actions constitute identical violations of the Pennsylvania Human Relations Act.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

A. Defendant is to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, reinstatement, and seniority.

B. Plaintiff is to be awarded punitive or liquidated damages, as permitted by applicable law, in an amount believed by the Court or trier of fact to be appropriate to punish Defendant for its willful, deliberate, malicious and outrageous conduct and to deter Defendant or other employers from engaging in such misconduct in the future;

C. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate (including but not limited to damages for emotional distress / pain and suffering);

D. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorney's fees as provided by applicable federal and state law.

E. Plaintiff is to receive a trial by jury as set forth in the caption of this Complaint.

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

By: ______________________

Ari R. Karpf, Esq.
3331 Street Road
Two Greenwood Square
Suite 128
Bensalem, PA 19020
(215) 639-0801

Dated: November 11, 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

TRACY HAMILTON	:	CIVIL ACTION
v.	:	
UNIVERSAL HEALTH SERVICES, INC. d/b/a FOUNDATIONS BEHAVIORAL HEALTH	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

11/12/13	Ari R. Karpf	Plaintiff
Date	**Attorney-at-law**	**Attorney for**
(215) 639-0801	(215) 639-4970	akarpf@karpf-law.com
Telephone	**FAX Number**	**E-Mail Address**

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 213 Parkridge Drive, Perkasie, PA 18944

Address of Defendant: 833 Butler Avenue, Doylestown, PA 18901

Place of Accident, Incident or Transaction: Defendant's place of business

(*Use Reverse Side For Additional Space*)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes☐ No☒

Does this case involve multidistrict litigation possibilities? Yes☐ No☒

RELATED CASE, IF ANY:

Case Number: ______ Judge ______ Date Terminated: ______

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes☐ No☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes☐ No☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes☐ No☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes☐ No☐

CIVIL: (Place ✔ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases (Please specify) ______

B. *Diversity Jurisdiction Cases:*

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases (Please specify) ______

ARBITRATION CERTIFICATION

(*Check Appropriate Category*)

I, Ari R. Karpf, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 11/12/13 ______ (signature) Attorney-at-Law ARK2484 Attorney I.D.# 91538

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/12/13 ______ (signature) Attorney-at-Law ARK2484 Attorney I.D.# 91538

CIV. 609 (5/2012)

JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
HAMILTON, TRACY

DEFENDANTS
UNIVERSAL HEALTH SERVICES, INC. d/b/a FOUNDATIONS BEHAVIORAL HEALTH

(b) County of Residence of First Listed Plaintiff: Bucks

County of Residence of First Listed Defendant: Bucks

(c) **Attorney's (Firm Name, Address, Telephone Number and Email Address)**
Karpf, Karpf & Cerutti, P.C., 3331 Street Road, Two Greenwood Square, Suite 128, Bensalem, PA 19020, (215) 639-0801, akarpf@karpf-law.com

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☒ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Americans w/Disabilities Act "ADA" (42USC12101), FMLA (29USC2601).

Brief description of cause:
Violations of the ADA, FMLA and the Pennsylvania Human Relations Act.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S)

(See instructions): JUDGE DOCKET NUMBER

Explanation:

DATE: 11/12/13

SIGNATURE OF ATTORNEY OF RECORD

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